

STATE OF COLORADO

COLORADO DEPARTMENT OF HEALTH

Dedicated to protecting and improving the health and environment of the people of Colorado

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Executive Director

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February 15, 1994

Mr. Richard J. Schassburger
U.S. Department of Energy
Rocky Flats Plant
Building 116
P. O. Box 928
Golden, Colorado 80402-0928

RE: Request for Extension, Draft & Final Phase I RFI/RI Report for OU 8

Dear Mr. Schassburger,

The Colorado Department of Health, Hazardous Materials and Waste Management Division (the Division) and the U. S. Environmental Protection Agency (EPA) have received and considered DOE's January 31, 1994, request for a modification to work for the Final OU 8 RFI/RI Workplan and schedule extension for the submittal of the Draft and Final OU 8 RFI/RI Report (94-DOE-00173). For the specific reasons set forth below, your request for a schedule extension is hereby denied and, as of your receipt of this letter, DOE is in violation of the IAG.

DOE is attempting to convince CDH and EPA that extensions to the milestones for submittal of the Draft and Final RFI/RI Report for OU 8 are justified because of an eleventh hour proposal to modify work. This argument is not accepted. DOE remains liable for any delay incurred as a result of 1) a failure on DOE's part to secure adequate funding under the terms of the IAG, and 2) a unilateral DOE-RFO decision to allocate no funding to OU 8 for RFI/RI implementation.

DOE is notified, therefore, that stipulated penalties will accrue automatically from the date DOE receives this letter for the Draft OU 8 RFI/RI Report, and July 12, 1994, for the Final OU 8 RFI/RI Report. Through the IAG, DOE has agreed to pay up to \$5,000 for the first week and \$10,000 for each week thereafter for the late submittal of primary documents. Penalties will continue until such time that a satisfactory draft and final report are submitted. We will consider the draft and final OU 8 RFI/RI Reports to have been submitted when we receive reports which document completion of efforts as specified in approved Workplans and any subsequent amendments thereto. These efforts must be designed to support the decision process required to identify a final remedy for OU 8.

With regard to DOE's request for a modification to work for the Final OU 8 Workplan, the agencies find the proposal insupportable in that it asks for more time to do less work. Regardless, for us to consider this modification to work, a significant amount of additional data will be necessary. For instance, DOE has not delineated 1) which IHSSs in OU 8 will be investigated now and which will be delayed, 2) the justification for each IHSS being delayed, 3) the schedule for the extent of delay, 4) the scope of work planned for those IHSSs that will continue to be investigated, 5) the schedule for the proposed investigations, etc. DOE must realize that we cannot, and will not, approve either open-ended modifications to

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work or open-ended extension requests.

In addition, it is worth noting that the modification to work proposed in 94-DOE-00173 is not consistent with the proposal presented in the "Industrial Area OU Integration IHSS Evaluation" document. In 94-DOE-00173, DOE has proposed two categories of IHSSs in OU 8 - one group that can be investigated now, which will constitute the "new" scope of the OU 8 Workplan, and one group that should be tied to building cleanup, hence delayed. In contrast, the IHSS Evaluation document delineates one additional category for OU 8 IHSSs (Potential Early Action (PEA)), and does not contemplate implementing an RFI/RI. These inconsistencies are another example of why the agencies cannot approve the requested modification to work.

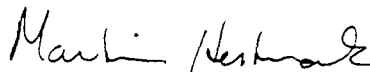
The agencies continue to support the efforts underway to revise and revamp the cleanup strategy for the industrialized area. We have stated since at least March, 1993, that we believe these efforts are warranted. We have given informal response to ideas forwarded by both DOE and EG&G but have yet to receive any formal proposal. So far, it is not evident that our responses and comments have had any effect. To that end, DOE remains liable for non-performance of work required by the IAG until it is specifically superseded by agreement of all parties.

If you have any questions concerning these issues, please contact Harlen Ainscough (CDH) at 692-3337, Joe Schieffelin (CDH) at 692-3356, or Bill Fraser (EPA) at 294-1081.

Sincerely,



Gary W. Baughman, Chief
Facilities Section
Hazardous Waste Control Program



Martin Hestmark, Manager
Rocky Flats Team
Environmental Protection
Agency, Region VIII

cc: Daniel S. Miller, AGO
Jackie Berardini, CDH-OE
Martin Hestmark, EPA
Bill Fraser, EPA
Bruce Thatcher, DOE
Wanda Busby, EG&G
Bruce Peterman, EG&G